

Changing Trends in Prisoner Petition Filings in the U.S. Courts of Appeals

A Fact Sheet

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SEPTEMBER 2, 1999

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Executive Summary

Filings of prisoner petitions in the U.S. courts of appeals rose rapidly over the past ten years, increasing nearly 94 percent between 1987 and 1996. Between 1994 and 1996 alone, filings of prisoner petition appeals grew 30 percent. Accelerating this growth was the December 1995 U.S. Supreme Court decision *Bailey v. United States*, which established that for enhanced penalties for using a firearm during a drug trafficking offense or crime of violence to apply, a defendant actually must have used a gun while committing the offense and not merely have possessed the weapon. This decision contributed to a 39 percent increase in motions to vacate sentence from 1995 to 1996.

To reduce the deluge of prisoner petitions in federal courts, Congress enacted two statutes in April 1996, the Prison Litigation Reform Act (PLRA) and Title I of the Antiterrorism and Effective Death Penalty Act (AEDPA). The PLRA focuses on petitions addressing conditions of confinement and has considerably reduced the number of these types of appeals filed. The AEDPA concerns state and federal habeas corpus prisoner petitions. Although the AEDPA appears to have helped reduce the number of motions to vacate sentence (federal habeas corpus prisoner petitions), the number of state habeas corpus prisoner petitions continued to rise.

Introduction

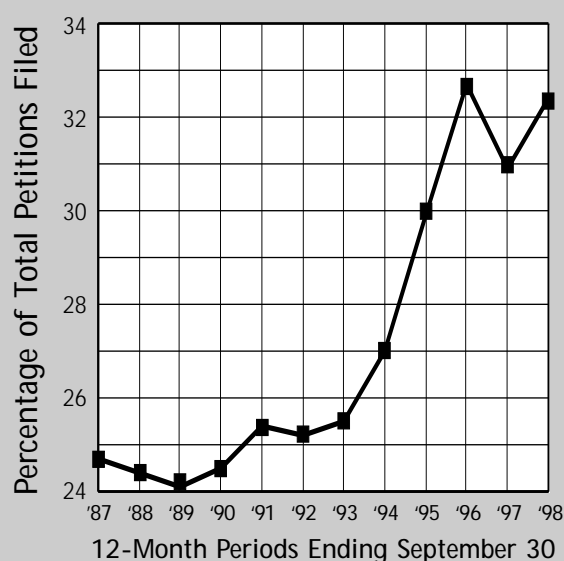
From 1987 to 1996, for the 12-month periods ending September 30, the total number of prisoner petition appeals filed in the U.S. courts of appeals (excluding the U.S. Court of Appeals for the Federal Circuit) increased 94 percent from 8,774 to 16,996. From 1994 to 1996 alone, filings of prisoner petition appeals rose 30 percent from 13,061 to 16,996 (see Figure 1). Prisoner petition appeals constituted an increasingly larger percentage of overall appeals in recent years. From 1987 to 1993, the proportion of total appeals filings that prisoner petitions accounted for remained relatively stable, rising less than 1 percent. However, as shown in Figure 2, prisoner petitions jumped from representing 26 percent of total appeals in 1993 to representing 33 percent of total appeals by 1996.

In April 1996, two laws were enacted to assist U.S. district courts and courts of appeals in handling prisoner petitions. The PLRA was aimed at reducing frivolous or malicious prisoner petitions, primarily those concerning civil rights and

prison conditions. Title I of the AEDPA was intended to expedite or reduce habeas corpus petitions. After the enact-

Figure 2.

U.S. Courts of Appeals Percentage of Prisoner Petitions



ment of these laws, the overall number of prisoner petitions filed in the appellate courts dropped 5 percent from 1996 to 1997. However, in 1998, the number of prisoner petition appeals filed rose 8 percent. The proportion of total appeals that prisoner petitions constituted declined from 33 percent in 1996 to 31 percent in 1997, but rose in 1998 to 32 percent of total appeals filed. To understand those trends better, one needs to examine trends in the various types of prisoner petition appeals.

Civil Rights Prisoner Petitions

Historically, the majority of prisoner petition appeals have involved prisoner civil rights.¹ These petitions present complaints about prison conditions and civil rights violations. Many of these appeals have been considered frivolous or malicious in nature. Filings of all civil rights petitions more than doubled from 4,322 in 1987 to 8,677 in 1996 (up 101 percent). Figure 3 shows that from 1991 to 1996, the rate of increase for civil rights prisoner petition appeals filed was noticeably steeper than in the recent past.

When the PLRA was implemented in 1996, it contained provisions that established mandatory filing fees, restrictions on filing successive petitions, and requirements for exhausting administrative remedies prior to filing petitions; it also increased the ability of courts to dismiss immediately any petition that is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief.

After the PLRA went into effect in April 1996, filings of civil rights prisoner petitions dropped 20 percent from 1996 to 1997 to 6,981 appeals, then fell 12 percent from 1997 to 1998 to 6,171 appeals. Figure 4 shows the impact of the PLRA on civil rights prisoner petition appeals in detail. Filings of civil rights prisoner petition appeals rose 8 percent between March and June 1996, followed by marked declines of 26 percent from June 1996 to March 1997 and 23 percent from March 1997 to December 1998.

Quarterly filings of civil rights prisoner petition appeals dropped most significantly in the three full quarters following the PLRA's enactment. Although this downturn did not continue uninterrupted—upward spikes in filings occurred intermittently after 1996—the overall trend for civil rights prisoner petition appeals filed after June 1996 was below the level for corresponding quarters in 1994.

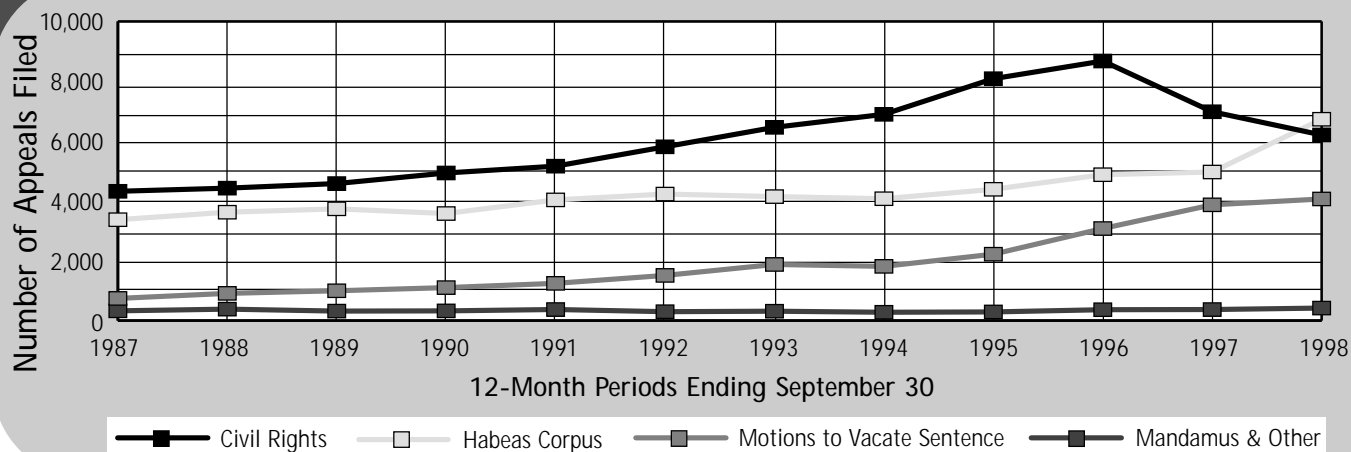
Habeas Corpus Petitions

Habeas corpus prisoner petitions are appeals to determine the legality of a prisoner's sentence. About 90 percent of these prisoner petitions are filed by state prisoners in an effort to vacate all or part of their sentences. The remaining 10 percent involve federal prisoners challenging selected aspects of their imprisonment. These appeals, which traditionally accounted for the second-largest portion of all types of prisoner petition appeals, increased 100 percent from 1987 to 1998—with a 65 percent jump occurring from 1994 to 1998. However, Figure 4 reveals that the number of habeas corpus prisoner petition appeals filed during the four quarters of 1998 surpassed the number of civil rights prisoner petition appeals filed.

The AEDPA mandated substantial changes to habeas corpus procedures in federal courts that were intended to expedite or reduce habeas corpus cases. Time limits for filing petitions were established, as was the requirement to consolidate all issues into one petition. Before filing second or successive habeas petitions in the U.S. district courts, prisoners first must obtain permission from the courts of appeals. The AEDPA also limited the scope of federal court review of the claims of state prisoners by requiring these prisoners to exhaust all state remedies first and obtain certificates of appealability to file habeas petitions in U.S. courts of appeals.

Filings of habeas appeals registered an 11 percent increase from 1995 to 1996, then a 2 percent rise from 1996 to 1997, but underwent a 36 percent boost from 1997 to 1998. This burst of activity likely stemmed in part from the AEDPA's requirements that prisoners consolidate all issues

Figure 3.
U.S. Courts of Appeals
Number of Prisoner Petitions Filed



into single petitions and adhere to strict time limits on filing. Increased prisoner populations in both state and federal prisons (see Figure 5) also contributed to the rise.² The lag between the filing of petitions in the U.S. district courts and the U.S. courts of appeals may have played a part in delaying the effects of the AEDPA in reducing petitions filed in the appeals courts, but whether this factor and increased prisoner populations are the only reasons for continued growth warrants analysis of data for additional years.

Motions to Vacate Sentence

Motions to vacate sentence are habeas corpus petitions from federal prisoners seeking to have their sentences vacated, set aside, or corrected on the grounds that the sentences were imposed in violation of the Constitution or laws of the United States, that the court imposed them without jurisdiction to impose such sentences, that the sentences were in excess of the maximum authorized by law, or other reasons. Due in large part to the imposition of the U.S Sentencing Guidelines, these appeals soared 449 percent from 1987 to 1998, with filings jumping 124 percent from 1994 to 1998. In the past, motions to vacate sentence represented a rela-

Figure 5.

Federal and State Prisoner Population

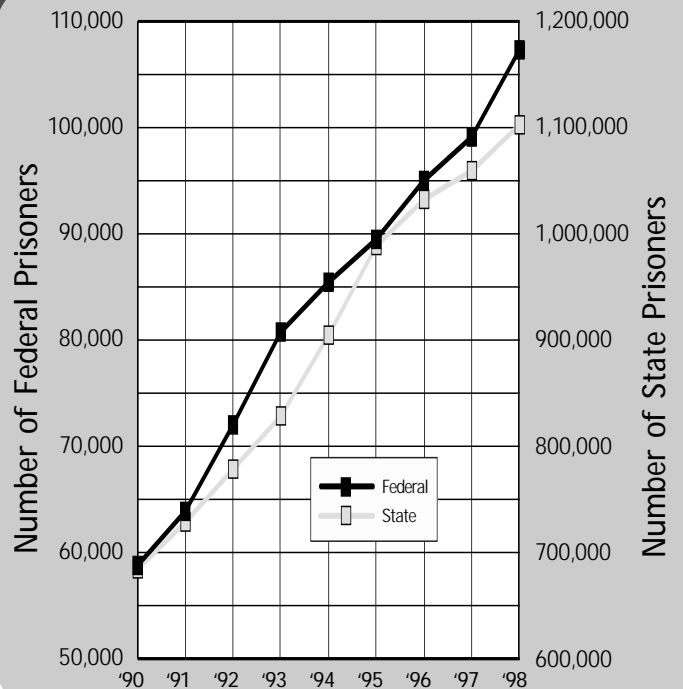
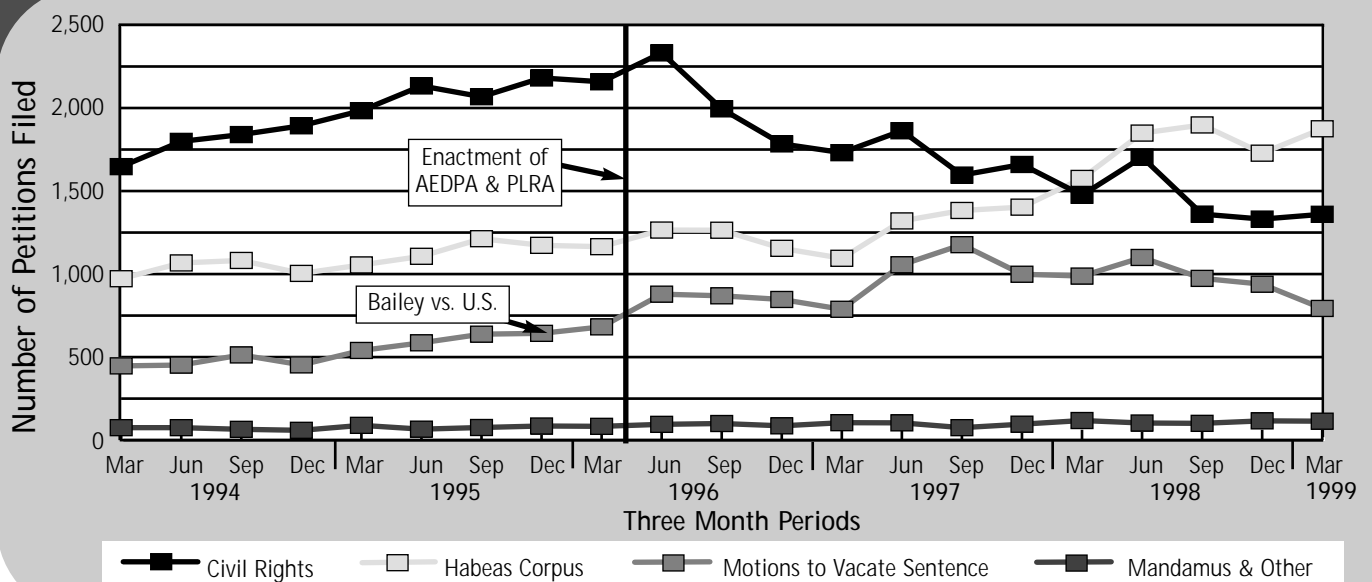


Figure 4.

U.S. Courts of Appeals Prisoner Petitions Filed by Quarter



tively small proportion of total prisoner petition appeals. However, more recently they constituted increasingly larger portions of the overall prisoner petition caseload—growing from 8 percent in 1987, to 14 percent in 1994, and to 23 percent in 1998 (see Figure 6). Growth in the federal prisoner population, which nearly tripled from 1987 to 1998, contributed to the rise.³

In December 1995, the Supreme Court decision in *Bailey v. United States* (116 S.Ct. 501) established that, for enhanced penalties for using a firearm during a drug trafficking offense or crime of violence to apply, a defendant actually must have used a gun while committing the offense and not merely have possessed the weapon. This decision led many inmates who had received such enhanced penalties to file for reductions in their sentences, and thus most likely contributed to an increase of 39 percent in motions to vacate sentence from 1995 to 1996.

Although filings of these types of appeals increased 26 percent from 1996 to 1997, the rate of increase slowed to 5 percent from 1997 to 1998 (see Figure 3). Figure 4 reveals that after reaching an all-time high of 1,177 filings during the three-month period ending September 30, 1997 (an 84

percent increase over the September 1995 quarter), filings dropped 33 percent by March 1999 to 793, indicating that the effects of *Bailey* were waning and that the AEDPA affected the filings of these types of appeals.

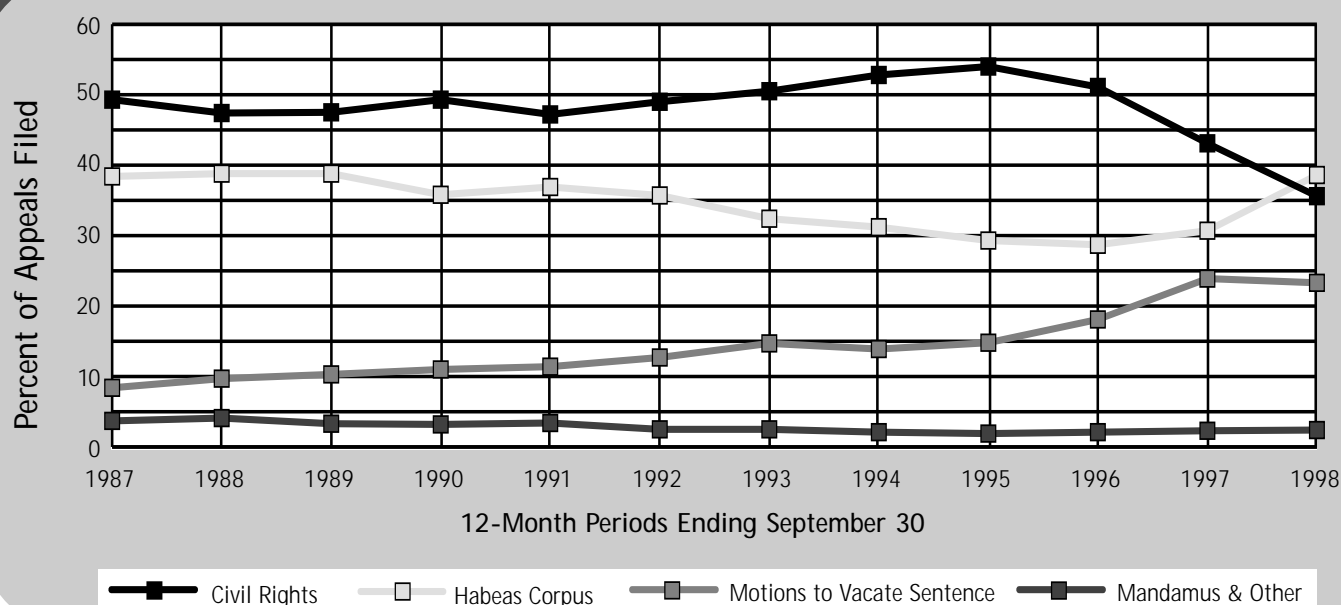
Summary

The PLRA appears to have led to a reduction in filings of civil rights prisoner petition appeals. Therefore, the PLRA seems to have been effective in diminishing the number of prisoner petitions in the U.S. courts of appeals despite the existence of a rapidly growing prison population.

The habeas corpus reform provisions of the AEDPA have affected filings of motions to vacate sentence and habeas corpus appeals, but appear to have had different impacts on each type of appeal so far. Habeas corpus petition appeals rose markedly in the last two years. Motions to vacate sentence appeared to rise slightly when viewed in 12-month increments (Figure 3), but examining these filings for 3-month intervals (Figure 4) shows they declined steadily after September 1997. In addition, the *Bailey* decision likely contributed to the surge in motions to vacate sentence between the quarters of December 1995 and June 1996. Since *Bailey* probably stopped affecting filings of these appeals after 1996, the requirements of the AEDPA are most likely responsible for the decline since September 1997.

Given the increasing state and federal prisoner popula-

Figure 6.
U.S. Courts of Appeals
Percentage of Prisoner Petitions Filed



tions, whether filings of motions to vacate sentence and of habeas corpus petitions in the courts of appeals will decline over time is not clear. To learn how the AEDPA restrictions on filing deadlines and on filing successive petitions, and the other administrative procedures established by the Act to streamline the processing of such appeals, have affected the workload of the courts of appeals will require further investigation with future data into median processing times and pending caseloads.

Endnotes

¹ Prior to 1997, data on prisoner petitions for both civil rights and conditions of confinement were classified in the Administrative Office of the U.S. Courts database under the category “prisoner civil rights.” On January 1, 1997, data on conditions of confinement began to be collected separately in a new “prison conditions” category. Throughout this article, however, the term “civil rights” is used to refer to data for both prisoner civil rights and conditions of confinement, regardless of the year in which the data were collected.

² According to the Bureau of Justice Statistics, from June 30, 1995, to June 30, 1998, the state prisoner population rose 11 percent and the federal prisoner population rose 20 percent. Data for years ending September 30 are not available.

³ According to the Federal Bureau of Prisons, the population of sentenced prisoners was 34,163 as of September 30, 1987, and was 95,522 as of September 30, 1998. These numbers, which exclude prisoners awaiting trial and sentence, represent the universe of prisoners who might file motions to vacate sentence.